

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**Office of Conservation and Coastal Lands**  
Honolulu, Hawaii

REF:OCCL:DH

CDUA: HA-3396

Acceptance Date: January 25, 2007  
180-Day Exp. Date: July 24, 2007

May 11, 2007

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Conservation District Use Application (CDUA) HA-3396 to make Improvements to Isaac Hale Beach Park

**APPLICANT:** Ron Terry, Geometrician Associates, P.O. Box 396, Hilo, Hawaii, 96721 for the County of Hawaii, Department of Parks and Recreation, 101 Pauahi Street, Suite 6, Hilo, Hawaii, 96720

**LANDOWNER:** TMK: (3) 1-3-008:014 County of Hawaii through Executive Order No. 847 from then Territory of Hawaii, known now as the State Department of Land and Natural Resources, Land Division, P.O. Box 621, Honolulu, Hawaii, 96809

**LOCATION:** Puna District, Island of Hawaii

**TMK's:** (3) 1-3-008:014 and 021, and (3) 1-4-002:008  
(3) 1-3-008:014 - 1.244 Acres  
(3) 1-3-008:021 - .827 Acres  
(3) 1-4-002:008 - 4.903 Acres/22.427 Acres

**AREA OF USE:** Approximately 2.931 Acres

**SUBZONE:** Resource

## DESCRIPTION OF AREA/CURRENT USE:

On June 1, 1939, the beach park was transferred from the Territory of Hawaii (now the State of Hawaii) to the County of Hawaii through Executive Order No. 847. The project area is located in east Hawaii, in the Puna District. Formerly known as Pohoiki Park, it was renamed in 1951 to honor Isaac Hale, who was killed in combat in the Korean War.

Isaac Hale is one of two County beach parks in the Puna District. In 1990, the Kilauea lava flow inundated Harry K. Brown Park, Kalapana Beach Park, and Kalapana Black Sands Beach, thus creating heavy recreational traffic. It is an essential recreational resource as it is one of two County beach parks in the Puna area, and because it contains the only boat ramp in Puna.

Current park uses include: an active small boat harbor, and recreational area. This area supports an unpaved boat parking area, general parking lot, informal parking along the shoreline, picnic tables, and accessory facilities. Access to Isaac Hale Beach Park is by Kaimu-Kapoho Road (County Road 137), and Pohoiki Road (Mango Road)(**Exhibits 1, 2, & 3**).

Water is provided by the Hawaii County Department of Water Supply. A generator located on the adjacent parcel will provide electric service. No telephone service will be provided. Wastewater treatment will be provided by an individual wastewater treatment system.

Anchialine pools and/or wetlands near the project site may contain shrimp, *Metabetaeus lohena*, which was considered a "species of concern." The ocean waters support endangered and threatened mammal and reptile species on the Puna coast: green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretomochelys imbricata*), Hawaiian monk seal (*Monachus schauinslandi*). Two species of endangered native birds forage or fly over the site, the Hawaiian Hawk (*Buteo solitarius*) and Newell's Shearwater (*Puffinus auricularis newelli*). The periodic presence of the Hawaiian Hawk was also noted by DOFAW. Foraging habitat for the Hawaiian hoary bat (*Lasiurus cinereus semotus*) may be present. However, the applicant notes that no rare, threatened, or endangered animal species were detected on the project site.

Native flora species are found on the site, including milo (*Thespesia populnea*), hala (*Pandanus tectorius*), and beach naupaka (*Scaevola taccada*). The site is generally dominated, however, by the Polynesian-introduced species of *kamani* (*Calophyllum inophyllum*), with other Polynesian-introduced species of coconut (*Cocos nucifera*) and *noni* (*Morinda citrifolia*). There are no rare or threatened or endangered species found on or near the project area. An Archaeological Inventory Survey of the subject property was conducted, and no significant cultural sites and/or deposits were discovered in the Conservation District.

## PROPOSED USE:

The County of Hawaii, Department of Parks and Recreation proposes to make the following improvements to Isaac Hale Beach Park: two (2) picnic shelters with BBQ pits, nine (9) picnic tables (some with BBQ pits), one (1) shower, a shelter with three (3) temporary accessible toilets, 6-foot wide concrete and gravel walkways, waterlines, landscaping, one (1) hose bib stubout, three (3) light poles and associated electric lines, a boat turnaround, paved parking with thirty (30) regular and two (2) accessible stalls, a gate, drainage improvements. Eighteen (18) concrete bollards as well as earthen berms will be constructed to prevent vehicles from parking and driving onto the shoreline and pedestrian areas, and demolition activities. The project will not include tree removal in the Conservation District (**Exhibit 4**).

## SUMMARY OF COMMENTS:

The Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) consulted the following agencies: DLNR – Division of Conservation and Resource Enforcement (DOCARE), Historic Preservation Division (HPD), Division of Forestry and Wildlife (DOFAW), Division of Aquatic Resources (DAR), Hawaii District Land Division (HDLD), Division of Boating and Ocean Recreation (DOBOR), Department of Health (DOH), Office of Environmental Quality and Control (OEQC), Office of Hawaiian Affairs (OHA), County of Hawaii, Department of Planning, and Hilo Public Library. The following comments were received:

### Division of Conservation and Resource Enforcement

DOCARE notes the plan fails to address ocean user conflicts between the boaters who launch from the State DOBOR ramp and swimmers and surfers who also use the bay.

*Applicant Response: The project was not meant to deal with pre-existing user conflicts between swimmers and boaters using Pohoiki boat ramp, but instead explore possible recreational facilities when the county parks in Kalapana were destroyed by lava. The project will provide recreational opportunities and improve public health and safety in an area with social problems and recreational deficits. The park will create a substantial recreational area that is focused away from the boat ramp, and will help alleviate overcrowding near the facility.*

### Division of Forestry and Wildlife

No Comment.

### Division of Aquatic Resources

DAR notes adverse significant impacts to the aquatic resource values is not expected. All construction activities should occur mauka of the parks certified shoreline, and precautions taken to prevent debris, landscaping chemicals, eroded soil, petroleum products and other potential contaminants from flowing, blowing, or leaching into the

aquatic environment. All planned activities that occur makai of the certified shoreline should be adequately described; the department should have the opportunity to review all proposals that may affect or impact aquatic resources in the vicinity.

*Applicant Response: the project construction will involve a number of permits with enforceable best management practices to prevent pollution. The department is not currently planning any activity makai of the certified shoreline.*

Division of Boating and Ocean Recreation

No Comment.

Department of Health

The DOH notes subject parcel is located in the Critical Wastewater Disposal Area (CWDA) as determined by the Hawaii County Oahu Wastewater Advisory Committee where no new cesspools will be allowed. There is no individual wastewater system (IWS) plan for the subject parcel. Wastewater treatment and disposal have not been thoroughly addressed in the document. Existing wastewater facilities as well as new wastewater facilities must be designed to meet DOH rules. All wastewater plans must conform to applicable provisions of the DOH's administrative rules, Chapter 11-62, "Wastewater Systems." There is a possibility that existing cesspools are in violation of the US EPA's Large Capacity Cesspool regulations. Lastly, please review our standard comments.

*Applicant Response: There are no plans for a permanent restroom facility on any of the subject parcels in the Conservation District.; plans only call for park expansion and improvement projects in the SLU Agricultural District. We are in receipt of DOH IWS approval for TMK: (3) 1-3-008:016 (IWS File No. 4553) which was recently constructed. There are no large capacity cesspools in operation at any of the subject parcels. The standard comments were reviewed.*

County of Hawaii, Department of Planning

The Hawaii County Planning Commission granted a SMA Major Permit No. 410 in 2000 (a time extension was granted until November 16, 2010). The Department of Planning notes the following is located within the 40 foot shoreline setback area: 1) TMK: (3) 1-3-008:014 – portion of western accessible parking stall, 4 concrete bollards; 2) TMK: (3) 1-3-008:021 – 8 concrete bollards; and were permitted structures within the shoreline setback area. However, TMK: (3) 1-4-002:008 contains showers # 3 and # 4, and two section of six feet wide concrete walkway that will require a SMA Use permit assessment application to be submitted.

*Applicant Response: A SMA Use permit assessment application was submitted and SMA Minor permit No. SMM 07-000052 was issued to cover the six feet wide walking paths, picnic tables (with and without gazebos), outdoor showers, and other related improvements (bollards, portion of western parking lot, earth berms) on April 18, 2007.*

**ANALYSIS:**

Following review and acceptance for processing, the applicant was notified, by letter dated January 25, 2007 that:

1. The proposed use is an identified land use, pursuant to P-6, PUBLIC PURPOSE USES, D-1, "Land uses undertaken by the State of Hawaii or the counties to fulfill a mandated governmental function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Such land uses may include transportation systems, water systems, communication systems, and recreational facilities" within the Conservation District, according to Section 13-5-22, Hawaii Administrative Rules (HAR); please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to Section 13-5-40(a), HAR, no public hearing will be required; and
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, the Final Environmental Impact Statement (FEIS) was published in OEQC's Environmental Notice on May 8, 1998, and the Kauai County Mayor's Office was the accepting authority of the FEIS (June 17, 1996).

Staff Note: Number # 3 was an error and should read, "In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, the Final Environmental Assessment (FEA) was published in OEQC's Environmental Notice on May 8, 1998, and the Hawaii County Mayor's Office was the approving authority of the FEA."

**SECTION 13-5-30 CRITERIA:**

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, Hawaii Administrative Rules (HAR).

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

Staff notes that the proposed land use is an identified land use in the Conservation District. Staff notes that the proposed project has been designed to minimize potential adverse impacts on the area and its natural resources.

2. *The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.*

The objective of the Resource subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of the area. Staff is of the opinion that the proposed land use is consistent with the Resource subzone's identified land use(s).

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management," where applicable.*

The project is located within the County's Special Management Area and complies with the provisions identified in Chapter 205A, HRS for: Recreation Resources, Historical/Cultural Resources, Managing Development, and Scenic and Open Space Resources. The Hawaii County Planning Commission granted a SMA Major Permit No. 410 in 2000; and a SMA Minor Permit No. SMM 07-000052 was granted to cover the walking paths, picnic tables (with and without gazebos), outdoor showers, and other related improvements on April 18, 2007.

4. *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

Staff notes the proposed land use will not cause substantial adverse impact on the surrounding area, community and region.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff notes there will be minimal impact on the physical and natural environment and the nature of the area, and the proposed improvements are compatible with the locality and surrounding areas as this area was an existing beach park.

6. *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

Staff notes the natural beauty and open space characteristics of the area will be preserved, if not improved upon.

7. *Subdivision of land will not be utilized to increase the intensity of land uses in the conservation district.*

Staff notes the proposed project does not involve the subdivision of land in the conservation district.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff notes the proposed project will improve public health, safety, and welfare, as improvements will be made that enhance the recreational resources of the beach park.

**DISCUSSION:**

The proposed use is an identified land use, pursuant to P-6, PUBLIC PURPOSE USES, D-1, "land uses undertaken by the State of Hawaii or the counties to fulfill a mandated governmental function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Such land uses may include transportation systems, water systems, communication systems, and recreational facilities" within the Conservation District, according to Section 13-5-22, Hawaii Administrative Rules (HAR)."

Staff notes the Environmental Assessment presented a conceptual design that has now been refined. The three modified areas encompass the parking area(s), recreation space(s), and tree removal. The original plan noted the two existing parking areas in the Conservation District would be removed and converted to passive park uses; parking would be restricted to 12 unpaved parking spaces with four spaces reserved for disabled persons. The current plan notes existing parking areas will be reduced in size and organized into 32 paved parking spaces (two accessible) with bollards to restrict parking in certain shoreline areas. The original plan noted passive recreation space (picnic tables, barbecues) to be provided in the Conservation District. The current plan specifies locations and includes paths, picnic shelters, and minor landscaping. The original plan proposed the removal of trees; the current plan does not propose to remove trees (see Exhibit 4).

Staff is of the opinion that the proposed project will preserve the natural beauty and open space characteristics of the area, and recreational activities will be preserved if not improved upon. Staff notes the proposed mitigation measures for the most part have been mitigated and minimized. Lastly staff agrees with the applicant that the proposed project will provide recreational opportunities and improve public health and safety in an area with social problems and recreational deficits. Lastly, the park will create a substantial recreational area that is focused away from the boat ramp, and will help alleviate overcrowding near the facility.

Staff therefore recommends;

**RECOMMENDATION:**

Based on the proceeding analysis, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Application (CDUA) HA-3396 to make Improvements to Isaac Hale Beach Park, subject to the following terms and conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control;"
- 4) Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
- 5) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 6) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 7) The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
- 8) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;



- 9) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
- 10) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 11) During construction, appropriate mitigation measures shall be implemented to minimize impacts to the marine environment, off-site roadways, utilities, and public facilities;
- 12) If additional/undescribed construction, or landscape modifications near the shorelines are developed during the design process; plans will be submitted to your department for review;
- 13) Other terms and conditions as may be prescribed by the Chairperson; and
- 14) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

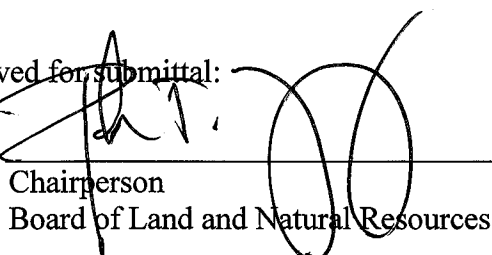
Respectfully submitted,



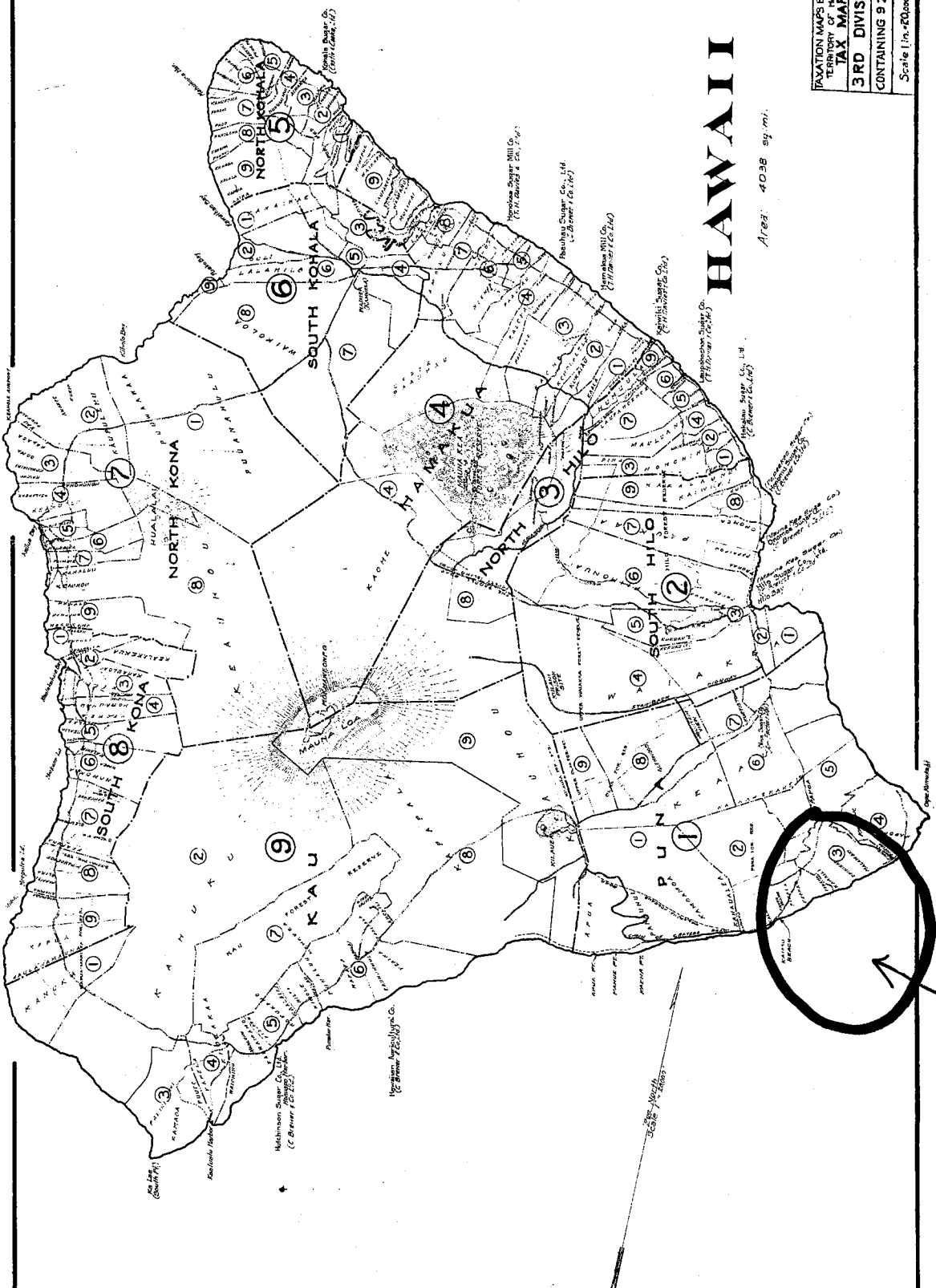
Dawn T. Hegger  
Staff Planner

Approved for submittal:

By:



Chairperson  
Board of Land and Natural Resources



TAXATION MAPS BUREAU  
 TERRITORY OF HAWAII  
**TAX MAP**  
**3RD DIVISION**  
 CONTAINING 9 ZONES  
 Scale 1 in. = 20.000 ft.

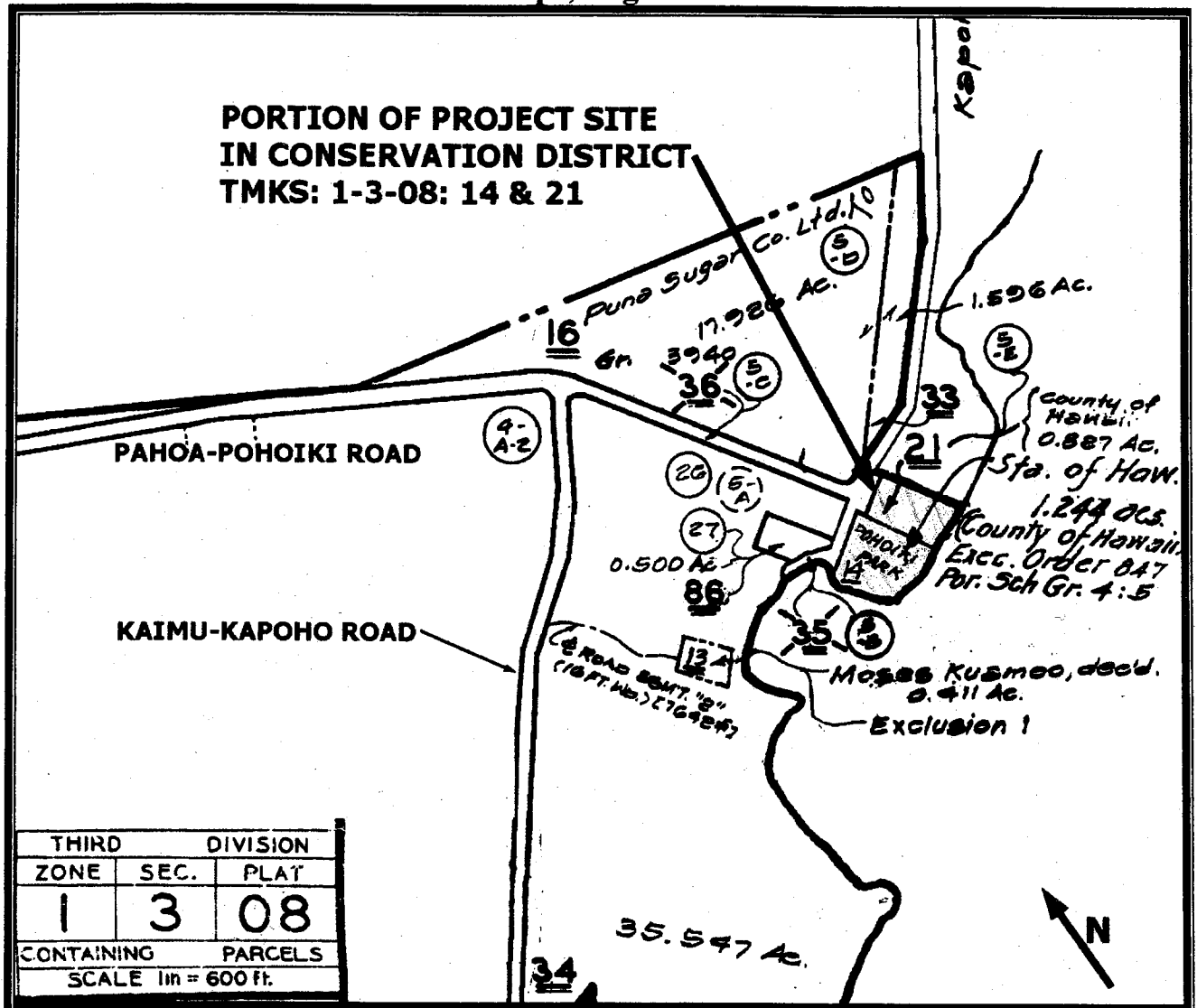
Area: 4038 sq. mi.

Proposed Project Area TMK:(3) 1-3-8:014  
 1-3-8:021  
 1-3-2:008

EXHIBIT I

Eng. No. 427  
 By: L. A. 11/1/1931  
 Revised by: 11/1/1931  
 Approved by: 11/1/1931  
 Source: National Survey Office  
 Date: 11/1/1931

Exhibit A2  
TMK Maps, Page 1



**PORTION OF PROJECT SITE IN CONSERVATION DISTRICT TMK 1-4-02:08**

**PAHOA-POHOIKI ROAD**

**KAIMU-KAPOHO ROAD**

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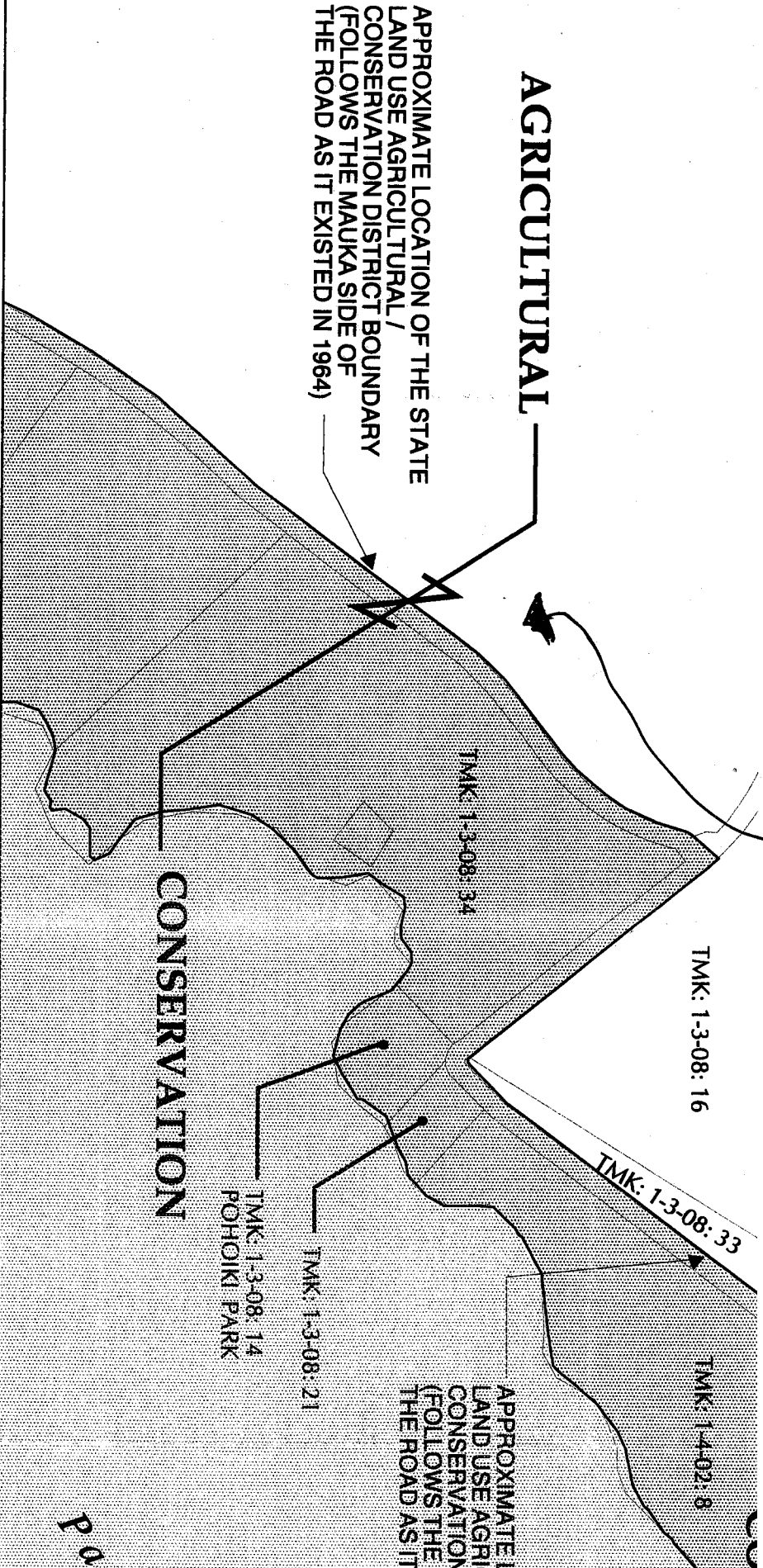
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**GR.**



# EXHIBIT 3

*Isaac Hale Beach Park*



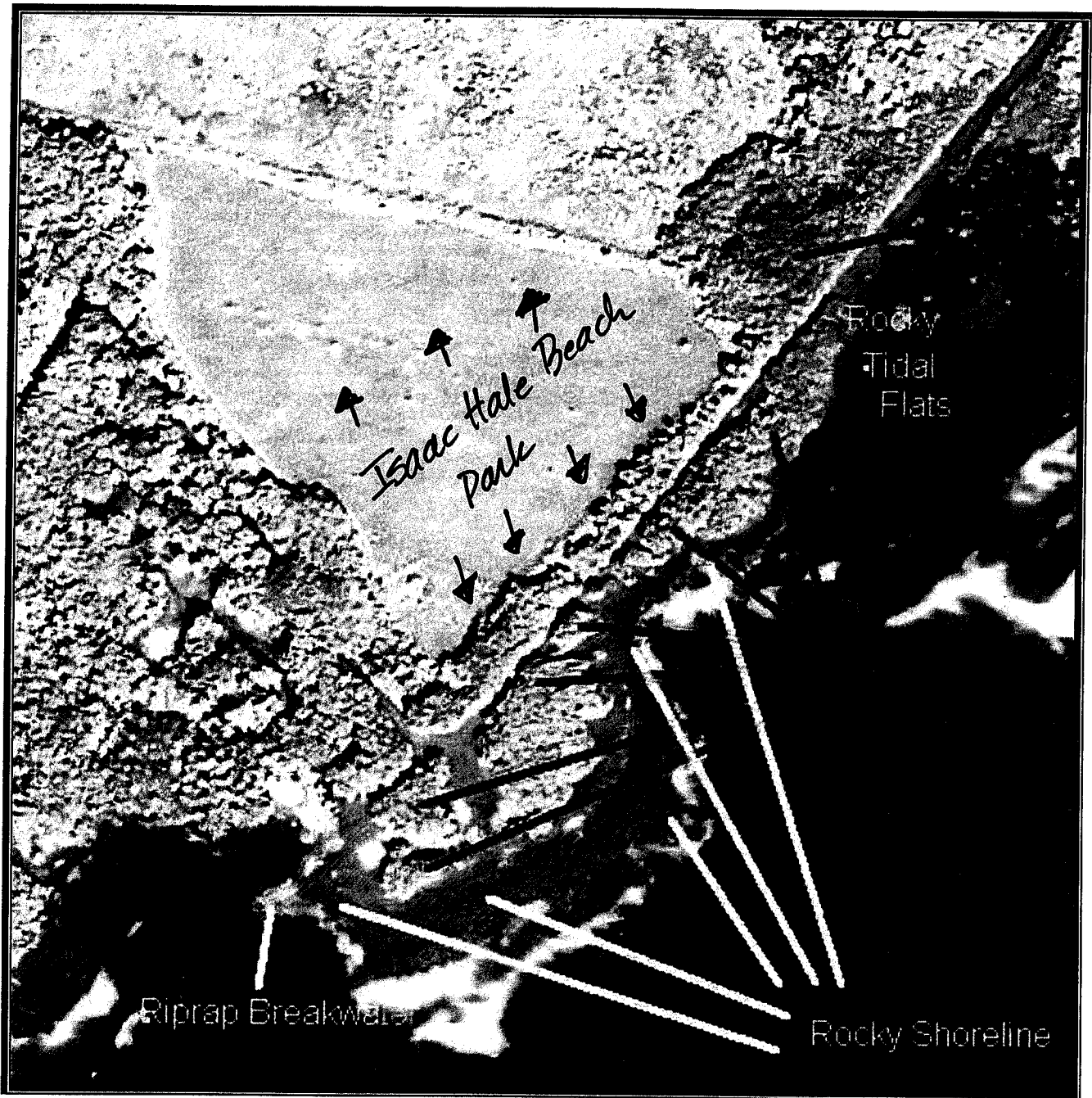
ISAAC HALE BEACH PARK EXPANSION  
County of Hawai'i  
Department of Parks & Recreation Project

The boundary as located, named and delineated is hereby certified as the actual Land Use District Boundary adopted by the State Land Use Commission, Honolulu, Hawai'i.

APR 06 2000 by *Robert M. ...*  
Dated Executive Officer

Boundary  
Interpretatic

**Exhibit E**  
**Airphoto Showing Vegetation Areas and Shoreline Types**





**Exhibit C**  
**Photographs of Makai Area of Isaac Hale Park, Page 1**

Pohoiki-Kapoho Road, CD on Right



Portable toilets on NW corner of intersection (outside CD)



Old Pavilion Foundation and Informal Parking Area



Kamani Trees and Existing Picnic Tables





**Exhibit C**  
**Photographs of Makai Area of Isaac Hale Park, Page 2**

Shoreline Parking Area Looking Makai (CD)



Boat Ramp



Surfing Entry Site (Center of CD)



Parking on Margin of Shoreline in CD



View of Harbor and Park from South



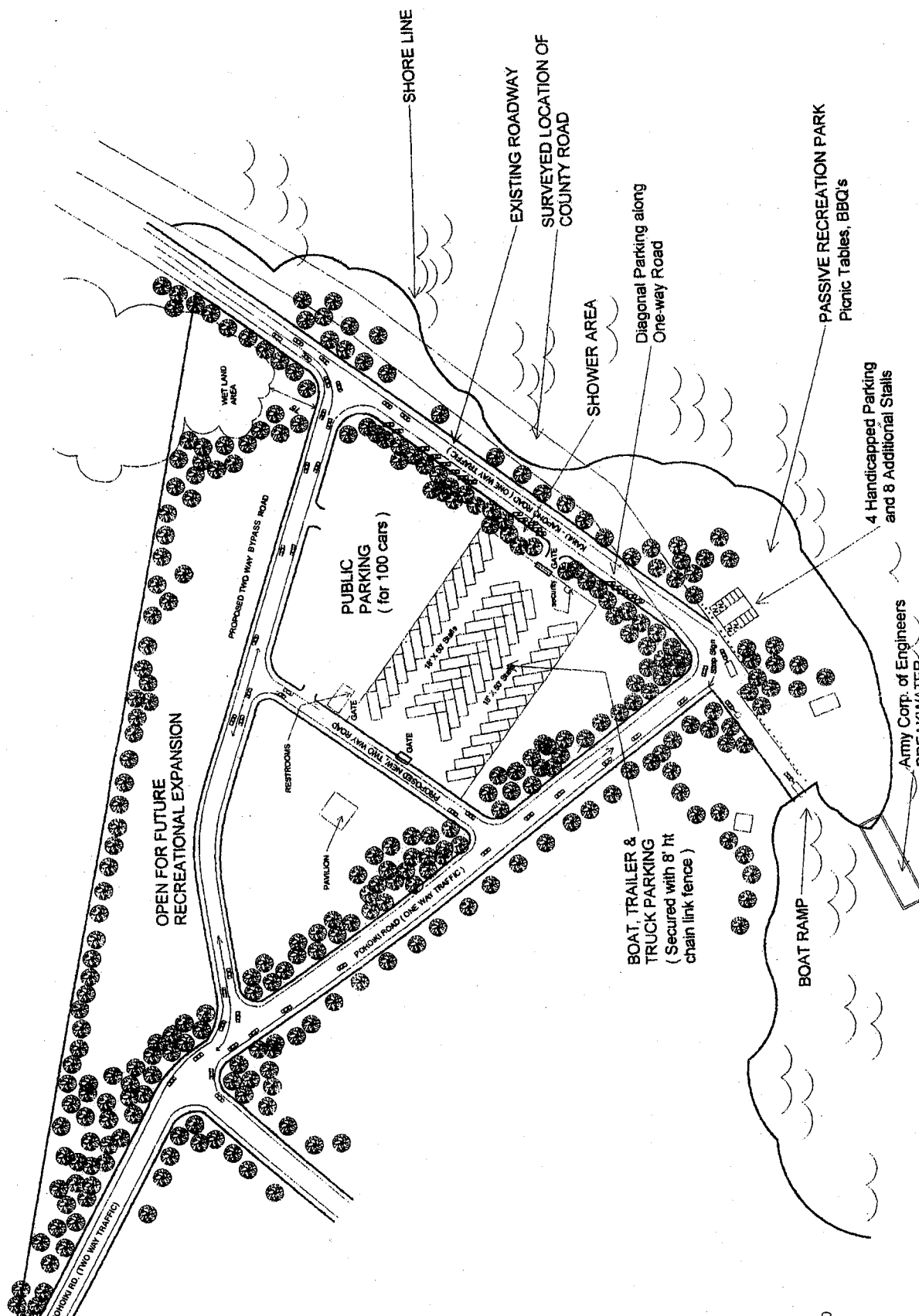
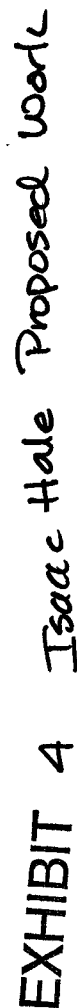


EXHIBIT 4 Isaac Hale Beach Park - Original Plan

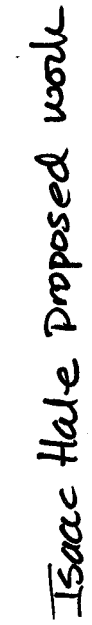


**CONSERVATION BDRY  
DEMOLITION  
WATER LINE  
ROADWAYS  
45/06 CERTIFIED SHOREL  
40-FOOT SHOREL, SETB  
FLOOD ZONE  
ARCH SITES**



### LINK FENCE DETAIL

DEMOLITION  
WATER LINE  
ROADWAYS  
4/5/06 CERTIFIED SHORELINE  
40-FOOT SHOREL. SETBACK  
FLOOD ZONE



## PRUNING & CLEARING NOTES

[illegible][illegible]

**EXHIBIT**